UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1361
31 August 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fifth session

SUMMARY RECORD OF THE 1361st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 August 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the eleventh to fourteenth periodic reports of Chile (continued)

Draft concluding observations concerning the twelfth to fifteenth periodic reports of Uruguay

Draft concluding observations concerning the initial and second to fifth periodic reports of Mauritania

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.99-43896 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the eleventh to fourteenth periodic reports of Chile (CERD/C/55/Misc.36/Rev.2; future CERD/C/...) (continued)

1. The CHAIRMAN invited the Committee to resume its consideration of the concluding observations concerning the eleventh to fourteenth periodic reports of Chile (CERD/C/55/Misc.36/Rev.2).

Paragraph 13

2. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the question of a formal apology and compensation for discrimination suffered by indigenous groups had been raised by the Chairman during the Committee's dialogue with the Chilean delegation. For consistency's sake, future concluding observations concerning countries whose indigenous population had suffered discrimination should contain a similar paragraph.

3. The CHAIRMAN suggested that a standard paragraph on the issue should be included in the other concluding observations adopted at the fifty-fourth and fifty-fifth sessions, since they would all form part of the Committee's annual report to the General Assembly.

4. Mr. SHERIFIS said that, while the issue of apology and compensation had been raised with the Chilean delegation, and the delegation had responded, it had not been raised specifically with other delegations, and it did not, therefore, seem appropriate to include it in the concluding observations concerning those periodic reports. The Committee should certainly raise the issue during its consideration of future reports, where appropriate.

5. He suggested that the paragraph should be amended to read: "... considers the issue of a formal apology, as well as ways to ensure compensation ...".

6. Mr. HUSBANDS (Secretary of the Committee) said that the concluding observations adopted at the fifty-fourth session in March 1999 had already been published and transmitted to the States parties concerned. If the Committee wished to include an extra paragraph on the issue of apology and compensation, it would have to issue a formal corrigendum to each set of concluding observations.

7. Mr. RECHETOV said that a standard paragraph of that kind could have serious consequences for the Committee's relationship with many States parties. Many of the members' own countries, including his own, had been created as a result of colonization, which inevitably meant persecution of indigenous people, murder and the theft of land and natural resources. In countries such as Australia, measures to compensate the indigenous population for such acts had met with enormous opposition from the white population. Chile had shown great courage in admitting the crimes committed against its

indigenous people during colonization, and it would be most unfair if its only reward was a demand from the Committee for apologies and compensation for the victims. He would accept the paragraph if other members wished to retain it, but he had considerable doubts.

8. Mr. BANTON asked how the Committee would decide which States parties should be asked to consider making an apology and paying compensation to their indigenous populations. For example, would Argentina, Australia and Sweden, whose reports were due for consideration at the next session, be regarded as likely candidates? Perhaps the Committee should invite States parties to consider ways of achieving reconciliation and the part which apologies and compensation might play in that process.

9. The CHAIRMAN said that each case would be considered on its merits. In view of the acts of genocide against the indigenous people of Chile and the suffering of the Afro-American population during slavery and transportation, which the Chilean delegation had freely acknowledged, it was surely not expecting too much for the Committee to call for an apology and compensation.

10. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) pointed out that there were very few Afro-Americans in Chile. The black population was well integrated and there was a large mixed-race population.

11. Mr. van BOVEN said that he took a special interest in the subject of compensation, having acted in the past as a special rapporteur on the issue of reparations to victims of human rights violations. Many European countries, including his own, had played a shameful role in the slave trade, with consequences which persisted to the present day. During his time as special rapporteur, he had been approached by Afro-American groups from the United States of America, which had considered that a legal obligation to provide compensation must be placed upon the former colonial Powers.

12. The Committee might consider drawing up a general recommendation on the subject at some point in the future, particularly since it had already agreed that it should reconsider the provisions of article 6 of the Convention relating to reparation. In the meantime, it might include in the concluding observations on the report of Chile a reference to its General Recommendation XXIII concerning indigenous peoples, which would show that the Committee was concerned with the general principle of compensation, not just with criticizing Chile.

13. The CHAIRMAN agreed that it was not a question of criticizing individual countries: the descendants of those victims of racial discrimination deserved compensation. However, since it would clearly be difficult to amend concluding observations which had already been adopted, he suggested that the Committee might agree informally to include a standard paragraph on the issue of apology and compensation in future concluding observations, where appropriate, the decision being taken on a case-by-case basis.

14. Mr. DIACONU said that the issue must be raised with each State party concerned, and its answers must be taken into account. Some States parties might not recognize that crimes had been committed against their indigenous populations, or they might consider that they had already made adequate reparation.

15. Mr. SHERIFIS proposed a new version of paragraph 13, to read: "The Committee commends the State party for having recognized its part in the discrimination experienced by the indigenous population, recalls its General Recommendation XXIII concerning indigenous peoples and requests the State party to consider the issue of a formal apology as well as ways to ensure compensation for all concerned, a policy which, inter alia, will significantly contribute to the reconciliation process in society as a whole".

16. The CHAIRMAN expressed the opinion that the paragraph should refer to the "indigenous and black population" of Chile, but suggested that the inclusion of a reference to the black population should be contingent on a further investigation of the actual situation of that population as reported during the discussion.

17. On that understanding, paragraph 13, as amended, was adopted.

Paragraphs 14 and 15

18. Paragraphs 14 and 15 were adopted.

Paragraph 16

19. Mr. DIACONU suggested that the word "other" should be deleted before "national or ethnic minorities", since indigenous people were often sensitive about being called minorities.

20. Paragraph 16, as amended, was adopted.

Paragraphs 17 and 18

21. Paragraphs 17 and 18 were adopted.

Paragraph 19

22. In reply to a question by the CHAIRMAN, Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the further information requested in paragraph 17 related only to the specific subjects listed there: it was not, therefore, inconsistent with the statement in paragraph 19 that Chile's next report should be an updating report.

23. Paragraph 19 was adopted.

24. The draft concluding observations concerning the eleventh to fourteenth periodic reports of Chile as a whole, as amended, were adopted.

Draft concluding observations concerning the twelfth to fifteenth periodic reports of Uruguay (CERD/C/55/Misc.37/Rev.3; future CERD/C/...)

Paragraphs 1 to 3

25. Paragraphs 1 to 3 were adopted.

Paragraph 4

26. The CHAIRMAN suggested substituting the word "persons" for the word "individuals" after the words "equality of".

27. Paragraph 4, as amended, was adopted.

Paragraph 5

28. Mr. GARVALOV proposed, for the sake of clarity, deleting the words "efforts concerning the" before the word "inclusion" in the first sentence.

29. Paragraph 5, as amended, was adopted.

Paragraph 6

30. Paragraph 6 was adopted.

Paragraph 7

31. The CHAIRMAN proposed adding the word "national" before the words "non-governmental organizations".

32. Paragraph 7, as amended, was adopted.

Paragraph 8

33. Mr. RECHETOV said that he felt it contradicted the spirit of section D, which dealt with principal subjects of concern, to start the paragraph with a clause welcoming a development.

34. Mr. SHERIFIS proposed that the initial clause welcoming the inclusion of information on demographic composition should be deleted and that the paragraph should begin with the words "The Committee remains concerned ...".

35. Paragraph 8, as amended, was adopted.

Paragraph 9

36. Mr. GARVALOV, supported by Mr. DIACONU, said that the same logic applied to the laudatory opening clauses of paragraph 9, which he would delete, leaving only the final expression of concern.

37. Mr. SHERIFIS proposed deleting the entire paragraph. The request for information on how the penal legislation was applied could be added to the Committee's suggestions and recommendations in section E.

38. The CHAIRMAN, observing that a lack of information should not be magnified into a principal subject of concern, concurred.

39. Paragraph 9 was deleted.

Paragraph 10

40. Mr. SHERIFIS proposed that, again, the opening sentence expressing appreciation should be deleted and that the paragraph should accordingly begin with the words "The Committee remains concerned ...".

41. Mr. DIACONU said that, although he would not have been averse to retaining the expression of appreciation because the matter had not been referred to earlier in the draft, Mr. Sherifis' amendment made it necessary to specify the article of the Convention concerned. He therefore proposed replacing the phrase "this article, especially article 5 (c) and (e)," by the phrase "article 5, especially subparagraphs (c) and (e),".

42. It was so decided.

43. Mr. BANTON, supported by Mr. RECHETOV, proposed that in the second sentence, after the phrase "women belonging to the Afro-Uruguayan community", the clause ", who are victims of double discrimination on grounds of both their gender and race" should be deleted. There had been no discussion with the delegation as to why Afro-Uruguayan women were concentrated in low-paying, insecure jobs as domestic servants; and although that could be accounted for by an inherited inequality in which discrimination played a part, the Committee's statement was only speculation. He did not believe, furthermore, that the Committee should concern itself with discrimination on grounds of gender.

44. The CHAIRMAN, speaking as a member of the Committee, concurred, saying that in general he was not in favour of introducing a gender perspective into the work of every committee and body.

45. Ms. McDOUGALL said that she for her part did believe that the Committee should be concerned with gender discrimination when there was an intersection between racial discrimination and a particular situation of unequal treatment of women. Especially in the case of the Uruguayan report, she hoped that the reference to double discrimination would be retained in the text, since such a situation had been pointed out by the State party, which had submitted disaggregated data, and several Committee members had expressed concern about the matter.

46. It was so agreed.

47. Paragraph 10, as amended, was adopted.

Paragraph 11

48. Mr. RECHETOV said that it was his understanding that the legal mechanisms of habeas corpus and amparo were applicable only in the most serious cases of racial discrimination involving bodily harm or death, and he thought it was unnecessary to refer to them in a paragraph dealing with acts of racial discrimination in general.

49. The CHAIRMAN concurred, adding that the two terms would not be clear to the layman.

50. Mr. de GOUTTES observed that both remedies were apparently available in Uruguay.

51. Ms. McDOUGALL, explaining that habeas corpus was a common-law protection in criminal cases whereas amparo was a civil action, suggested that if, however, the terms caused confusion, the first part of the paragraph could be deleted and only the expression of concern retained.

52. Ms. ZOU Deci (Country Rapporteur) pointed out that if the only specifically Uruguayan aspects were deleted, paragraph 11 would have little meaning. The Uruguayan report had devoted two detailed paragraphs precisely to those two remedies, and the point was that the mechanisms existed but that the Afro-Uruguayan and indigenous communities did not appear to have access to them.

53. Paragraph 11 was adopted.

Paragraph 12

54. Mr. SHERIFIS proposed deleting the laudatory first clause of paragraph 12 and starting the paragraph with the words "The absence of ...", the remainder of the sentence being amended to read: "sufficient information on the teaching of human rights, in particular on the combating of racial discrimination, in the school curricula, as well as the lack of information on awareness-raising programmes to combat racial discrimination, is a matter of concern."

55. Paragraph 12, as amended, was adopted.

56. Mr. de GOUTTES, supported by Mr. SHERIFIS, proposed transferring the initial clause just deleted from paragraph 12 and making it, with minor drafting changes, a separate new paragraph after paragraph 7 in section C, relating to positive aspects.

57. It was so decided.

Paragraph 13

58. The CHAIRMAN proposed, in the second sentence, using the stronger word "requests" in place of the word "encourages".

59. Paragraph 13, as amended, was adopted.

Paragraph 14

60. Mr. de GOUTTES suggested that the concern that had originally figured in paragraph 9, which had been deleted, should be added as a recommendation at the end of paragraph 14.

61. Ms. ZOU Deci (Country Rapporteur) proposed that the phrase "and information on how the legislation is applied by the courts and the administration" should be added at the end of the paragraph.

62. Paragraph 14, as amended, was adopted.

Paragraph 15

63. Mr. van BOVEN, supported by the CHAIRMAN, said that the issue of persons evicted from their homes should be addressed. He proposed, therefore, that the words "employment and housing" at the end of the text should be followed by a comma and "and take special remedial measures with respect to those groups and persons who have been evicted from their homes".

64. Mr. BANTON said he thought that the subject warranted a separate paragraph to recommend that the State party should investigate whether promises had been made to the Afro-Uruguayan families evicted from neighbourhoods in 1976 and whether justice had been done in their cases.

65. Following further observations by the CHAIRMAN, Ms. McDOUGALL and Mr. LECHUGA HEVIA, the CHAIRMAN suggested that discussion of paragraph 15 should be left in abeyance pending informal consultations with a view to revised wording, inter alia recommending a formal apology and compensation measures by the Uruguayan authorities for people deprived of their homes.

66. It was so agreed.

Paragraph 16

67. Mr. SHERIFIS proposed that the paragraph should be reworded:

> "The Committee recommends that the State party establish special programmes aimed at facilitating the social enhancement of women belonging to the Afro-Uruguayan community, who suffer double discrimination on grounds of both their race and gender."

68. The CHAIRMAN said he took it, hearing no objection, that the Committee agreed to the proposed amendment.

69. Paragraph 16, as amended, was adopted.

Paragraph 17

70. Following proposals by Mr. GARVALOV and Mr. RECHETOV, the CHAIRMAN said he took it that the Committee agreed to replace the words "in particular for members of" and the preceding comma by "for persons belonging to".

71. Paragraph 17, as amended, was adopted.

Paragraphs 18 and 19

72. Paragraphs 18 and 19 were adopted.

Paragraph 20

73. Following observations by Mr. SHERIFIS, Ms. ZOU Deci (Country Rapporteur), Mr. GARVALOV, Mr. RECHETOV and Mr. van BOVEN, the CHAIRMAN said he took it that the Committee agreed to replace the words "the report" by "this periodic report".

74. Paragraph 20, as amended, was adopted.

Paragraph 21

75. Paragraph 21 was adopted.

76. The CHAIRMAN, noting that a decision had not been taken in respect of paragraph 15, suggested a brief suspension for informal consultations on that matter.

The meeting was suspended at 11.55 a.m. and resumed at 12.20 p.m.

77. The CHAIRMAN, summing up the informal consultations, said that discussion on paragraph 15 had highlighted two issues, the first being the recommendation of a formal apology and compensation measures, along the lines of the text adopted relating to the eleventh to fourteenth periodic reports of Chile (CERD/C/55/Misc.36/Rev.1). The consensus view was that, since the matter had not been raised with the delegation during its attendance at the Committee's current session, to include such a recommendation would be inappropriate, although the matter should be borne in mind at future sessions when considering periodic reports. It had been decided to reflect the second issue, relating to housing and the loss of homes, in an amended second sentence of paragraph 15.

78. Mr. BANTON said that the proposed amendment would read:

"With respect to employment, education and housing, the Committee recommends that the State party take all steps to reduce the existing inequalities and adequately compensate groups and persons for earlier evictions from housing".

79. The CHAIRMAN said he took it that the Committee accepted that wording as the revised second sentence of paragraph 15.

80. Paragraph 15, as amended, was adopted.

81. The draft concluding observations concerning the twelfth to fifteenth periodic reports of Uruguay as a whole, as amended, were adopted.

Draft concluding observations concerning the initial and second to fifth periodic reports of Mauritania (CERD/C/55/Misc.33/Rev.3; future CERD/C/...)

82. Mr. de GOUTTES (Country Rapporteur), noting that the original of the draft concluding observations had been in French and that the document submitted to the Committee was in English, explained that certain problems in the formulation of the draft might be ascribed to the translation. The text incorporated observations by Committee members, particularly the Chairman, Mr. Banton, Mr. van Boven and Mr. Diaconu.

Paragraph 1

83. Paragraph 1 was adopted.

Paragraph 2

84. Mr. BANTON proposed deleting the word "has" from the third line, replacing the comma after the word "Justice" with a semicolon and deleting the word "and" which followed.

85. Paragraph 2, as amended, was adopted.

Paragraph 3

86. Paragraph 3 was adopted.

Paragraph 4

87. Mr. GARVALOV said that the Convention should be mentioned first, followed by "and the other international human rights conventions".

88. Paragraph 4, as amended, was adopted.

Paragraph 5

89. Mr. SHERIFIS proposed that the words "It is noted with interest that the State party recently ratified ..." should be replaced by "The Committee welcomed the ratification by the State party of ...".

90. Paragraph 5, as amended, was adopted.

Paragraph 6

91. Mr. DIACONU suggested replacing "are noted with satisfaction" at the end of the paragraph by "are also noted".

92. Paragraph 6, as amended, was adopted.

Paragraph 7

93. Mr. GARVALOV proposed that the words "supplied by the Government" should be replaced by "supplied by the State party".

94. Paragraph 7, as amended, was adopted.

Paragraph 8

95. Mr. BANTON suggested that the paragraph should begin with the sentence "Insufficient information has been provided about the implementation of articles 2, 4 and 6 of the Convention and about prosecutions, judgements and penalties for acts of racial discrimination". In the second sentence, the word "penally" should be deleted, as it was redundant after the word "incriminate". The remainder of the paragraph was difficult to follow.

96. The CHAIRMAN asked Mr. de Gouttes whether the paragraph, in stating that insufficient information had been provided, was referring to the oral or the written information provided by the delegation.

97. Mr. de GOUTTES (Country Rapporteur) said he had no objection to the change in the word order in the English version suggested by Mr. Banton, and agreed that the word "penally" should be deleted. To simplify the paragraph, it could end after the words "article 4 of the Convention" in the second sentence.

98. Although the delegation had provided supplementary oral information, it was still insufficient to permit the Committee to verify whether the legislation was adequate, and the Committee should therefore request more information in the next report.

99. Paragraph 8, as amended, was adopted.

Paragraph 9

100. Mr. GARVALOV said he agreed with the content of paragraph 9, although the part which read "the information is noted to the effect that some groups of the population ..." appeared to be rather clumsy in English.

101. The CHAIRMAN, speaking as a member of the Committee, said he objected to paragraph 9 because it referred to "information" without giving its source, because no reference was made to the delegation's contention that the information was inaccurate, and because the phrase "which constitute a serious violation of the fundamental principles of the Convention" amounted to a statement by the Committee that the State party was in serious breach of the Convention. He would ask the Country Rapporteur to reconsider the paragraph, and if necessary would call for a vote to delete it.

102. Mr. de GOUTTES (Country Rapporteur) said it might be preferable, as had been done in other concluding observations, to use the term "allegations" rather than "information to the effect that", so as to make it clear that the information did not come from the State party itself. He had cited the sources of such allegations during his oral presentation. The phrase referring to a serious violation of the fundamental principles had been included so as to reflect the observations of some of the Committee members. If the Committee so decided, it could be simplified by deleting "which constitute a serious violation of the fundamental principles of the Convention".

103. The CHAIRMAN, speaking as a member of the Committee, said he found it difficult to accept the paragraph, even as recast.

104. Mr. SHERIFIS suggested that informal consultations should be held to enable the Country Rapporteur to draw up a new and more acceptable formulation for paragraph 9, and also for paragraph 10, whose current wording was faulty.

105. The CHAIRMAN said he took it that that suggestion was acceptable to members.

106. It was so agreed.

The meeting rose at 12.55 p.m.